

AMENDED IN ASSEMBLY MAY 1, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2097

Introduced by Assembly Member Hill

February 23, 2012

An act to add *and repeal* Section ~~56363.2~~ to 315.5 of the ~~Education~~ *Public Utilities* Code, relating to ~~special education~~ *public utilities*.

LEGISLATIVE COUNSEL'S DIGEST

AB 2097, as amended, Hill. ~~Special education: assistive technology devices. Public utilities: safety reports.~~

Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations and gas corporations, as defined. Existing law requires the PUC to investigate the cause of all accidents occurring within this state upon the property of any public utility or directly or indirectly arising from or connected with the utility's maintenance or operation, resulting in loss of life or injury to person or property and requiring, in the judgment of the PUC, investigation by the PUC. Existing law also authorizes the PUC to make any order or recommendation with respect thereto as in the PUC's judgment seems just and reasonable.

This bill would require an investor-owned utility that provides gas or electric service, or both, to annually report to the PUC on the disposition of all civil complaints against the utility where a matter of public safety that has substantial likelihood to jeopardize the lives or health of Californians is the gravamen of a claim in the complaint.

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the PUC is a crime.

Because the provisions of this bill are within the act, the bill would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law requires an individualized education program (IEP) team, when developing an IEP, to consider whether an individual with exceptional needs requires assistive technology devices and services, as defined. Existing law states that a local educational agency is not required to purchase medical equipment, which excludes an assistive technology device, for an individual with exceptional needs but that a local educational agency is responsible for providing other specialized equipment for use at school that is needed to implement the IEP.~~

~~This bill would authorize a local educational agency or special education local plan area to retain, sell, or otherwise dispose of an assistive technology device, including, but not limited to, giving the assistive technology device to the individual with exceptional needs to whom it was assigned, if specified determinations are made.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 315.5 is added to the Public Utilities*
- 2 *Code, to read:*
- 3 *315.5. (a) An investor-owned utility that provides gas or*
- 4 *electric service, or both, shall annually report to the commission,*
- 5 *in a format and on a schedule determined by the commission, on*
- 6 *the disposition of all civil complaints against the utility where a*
- 7 *matter of public safety that has substantial likelihood to jeopardize*
- 8 *the lives or health of Californians is the gravamen of a claim in*
- 9 *the complaint.*
- 10 *(b) On or by June 1, 2013, and each year after that, the*
- 11 *commission shall report to the Legislature on all complaints*
- 12 *pursuant to subdivision (a) that have been filed in the reporting*
- 13 *period that precedes that reporting date. This report shall include*

1 *a brief statement summarizing the safety issue or issues in each*
2 *complaint.*

3 *(c) (1) A report to be submitted pursuant to subdivision (b)*
4 *shall be submitted in compliance with Section 9795 of the*
5 *Government Code.*

6 *(2) Pursuant to Section 10231.5 of the Government Code, this*
7 *section is repealed on January 1, 2017.*

8 *SEC. 2. No reimbursement is required by this act pursuant to*
9 *Section 6 of Article XIII B of the California Constitution because*
10 *the only costs that may be incurred by a local agency or school*
11 *district will be incurred because this act creates a new crime or*
12 *infraction, eliminates a crime or infraction, or changes the penalty*
13 *for a crime or infraction, within the meaning of Section 17556 of*
14 *the Government Code, or changes the definition of a crime within*
15 *the meaning of Section 6 of Article XIII B of the California*
16 *Constitution.*

17 ~~SECTION 1. The Legislature finds and declares all of the~~
18 ~~following:~~

19 ~~(a) Assistive technology devices provided to individuals with~~
20 ~~exceptional needs better enables individuals with exceptional needs~~
21 ~~to achieve the goals stipulated in their individualized education~~
22 ~~program, develop important life skills, and transition into~~
23 ~~adulthood.~~

24 ~~(b) Assistive technology devices are tools for access,~~
25 ~~independence, and academic success for individuals with~~
26 ~~exceptional needs. Assistive technology devices can range from~~
27 ~~low technology equipment such as a calculator or audio recording~~
28 ~~device, to more sophisticated technology that is specialized and~~
29 ~~tailored to the individual needs of the pupil, and can include~~
30 ~~adaptive equipment, specialized computer software, a hearing aid,~~
31 ~~or a powered wheel chair.~~

32 ~~(c) State law does not authorize an assistive technology device~~
33 ~~to be given to an individual with exceptional needs for whom the~~
34 ~~assistive technology device was designed and assigned for use,~~
35 ~~when the individual with exceptional needs ages out of his or her~~
36 ~~eligibility for special education services under the federal~~
37 ~~Individual with Disabilities Education Act (IDEA) (20 U.S.C. Sec.~~
38 ~~1400 et seq.). This lack of authority has resulted in some assistive~~
39 ~~technology devices that cannot be reassigned to another individual~~

1 with exceptional needs, due to its unique construction or design,
2 to be rendered useless.

3 (d) It is the intent of the Legislature that in specified
4 circumstances, a special education local plan area or local
5 educational agency be authorized to sell or give an assistive
6 technology device to the individual with exceptional needs to
7 whom it was assigned when the individual with exceptional needs
8 will lose their IDEA eligibility.

9 SEC. 2. Section 56363.2 is added to the Education Code, to
10 read:

11 56363.2. In accordance with Section 80.32 of Title 34 of the
12 Code of Federal Regulations, a local educational agency or special
13 education local plan area may retain, sell, or otherwise dispose of
14 an assistive technology device, as defined in Section 56020.5,
15 including, but not limited to, giving the assistive technology device
16 to the individual with exceptional needs to whom it was assigned,
17 if the local educational agency or special education local plan area
18 determines that the assistive technology device has a current
19 per-unit fair market value of less than five thousand dollars
20 (\$5,000) and is no longer needed by the local educational agency
21 or special education local plan area for other individuals with
22 exceptional needs.